

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-33, and 37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison (US Patent No. 4,546,510).

Harrison discloses (see attached sheet of Office Action dated 24 October 2007) an elongated shaft, the shaft having a proximal and distal end and a forward and rearward side; the proximal end further comprising an opening, the opening integral with the elongated shaft and sized and configured to accommodate placement of a forefinger of a user through the opening; the forward side comprising a generally concave surface; the forward side further comprising a plurality of open-sided recesses configured to receive fingers of the user; the rearward side comprising a generally convex surface; and the distal end further comprising a protrusion extending at least distally and forward from a distal-most recess; wherein the device is capable of receiving the forefinger is placed through the opening and remaining with other fingers are placed in the recesses such that they are uncovered on one side and such that the protrusion forms an impact element extending at least distally and forward of a pinky finger of the user.

Harrison discloses the claimed invention except for claimed configuration of the forward and rearward sides, the dimensions of the device (parts thereof).

Applicant has not provided any criticality with respect to the dimensions of the device (parts thereof) in the disclosure.

It would have obvious to one having ordinary skill in the art at the time the invention was made to provide the device and parts thereof with the claimed dimensions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With respect to the forward side being a generally concave surface and the rearward side being a generally convex surface, Applicant has not provided any criticality with respect to these features in the disclosure.

It would have been obvious to one having ordinary skill at the time the invention was made to provide the forward side being a generally concave surface, and the rearward side being a generally convex surface, as an obvious design choice.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the forward side being a generally concave surface, and the rearward side being a generally convex surface, since it has been held that a change in configuration would only involve routine skill in the art. *In re Dailey* 149 USPQ 47.

### ***Response to Arguments***

Applicant's arguments filed 24 March 2008 have been fully considered but they are not persuasive.

Applicant's argument that Harrison does not disclose open-sided recesses formed in the body. Applicant further states that the arcuate surfaces 42 are formed in the sheath. The Examiner notes that Harrison states at col. 2, lines 5-10, " the body portion may be equipped with a plurality of finger grips. The cover may be equipped with a plurality of arcuate surfaces along one edge such that the arcuate surfaces are alignable with the finger grips when the cover is in the second position covering the axe formation cutting surface". The arcuate surfaces are integrally formed with the elongate shaft (on each side the cover).

With respect to Applicant's argument that Harrison does not present blunt, rounded edges substantially entirely thereabout". The Examiner is broadly interpreting this recitation as any structure that has an appearance of blunt, rounded edges. Even though, the reference shows a knife, it has an appearance of blunt, rounded edges.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

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/Gene Kim/

Supervisory Patent Examiner, Art Unit 3711